

Message Text

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PAGE 01 STATE 104879
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TAGS: CSCE

SUBJECT: CSCE EXPERTS MEETING ON PEACEFUL SETTLEMENT
OF DISPUTES -- -

1. SWISS AMBASSADOR CALLED ON ASSISTANT SECRETARY
VEST APRIL 20 TO LEAVE FOLLOWING NOTE CONCERNING
CSCE EXPERTS MEETING ON PEACEFUL SETTLEMENT OF DISPUTES.

BEGIN TEXT:

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PAGE 02 STATE 104879

THE EMBASSY OF SWITZERLAND PRESENTS ITS COMPLIMENTS TO
THE DEPARTMENT OF STATE AND HAS THE HONOR TO INFORM IT
AS FOLLOWS:

I.
BY SIGNING THE FINAL ACT OF THE CONFERENCE ON SECURITY
AND COOPERATION IN EUROPE (CSCE) IN HELSINKI ON

AUGUST 1, 1975, THE PARTICIPATING STATES DECLARED THEIR RESOLUTION TO PURSUE THE STUDY AND ELABORATION OF A GENERALLY ACCEPTABLE METHOD FOR THE PEACEFUL SETTLEMENT OF DISPUTES AIMED AT COMPLEMENTING EXISTING METHODS. FOR THIS PURPOSE IT WAS DECIDED TO CONVENE A MEETING OF EXPERTS FROM ALL PARTICIPATING STATES, AT THE INVITATION OF SWITZERLAND.

THIS EMBASSY WISHES TO RECALL THAT ON SEPTEMBER 18, 1973, THE SWISS DELEGATION TO THE CSCE PRESENTED A DRAFT CONVENTION ESTABLISHING A EUROPEAN SYSTEM FOR THE PEACEFUL SETTLEMENT OF INTERNATIONAL DISPUTES (CSCE II/B/1); THIS DOCUMENT WAS DISCUSSED AT THE CONFERENCE.

THE BELGRADE MEETING WHICH WAS HELD AS A CONTINUATION OF THE CSCE RECENTLY CONCLUDED ITS WORK. ACCORDING TO THE TERMS OF ITS CLOSING DOCUMENT, THE REPRESENTATIVES OF THE PARTICIPATING STATES AGREED -- FOLLOWING THE PROPOSAL MADE BY THE SWISS GOVERNMENT TO THAT EFFECT -- TO CONVENE A MEETING OF EXPERTS AT MONTREUX ON OCTOBER 31, 1978, TO PURSUE THE EXAMINATION AND ELABORATION OF A GENERALLY ACCEPTABLE METHOD FOR THE PEACEFUL SETTLEMENT OF DISPUTES AIMED AT COMPLEMENTING EXISTING METHODS.

UNCLASSIFIED

UNCLASSIFIED

PAGE 03 STATE 104879

II.

THIS EMBASSY WOULD APPRECIATE IT IF THE DEPARTMENT OF STATE COULD LET IT KNOW, BY THE END OF MAY, ITS VIEWS, OBSERVATIONS OR PROPOSALS REGARDING THE MEETING OF MONTREUX. FOR THEIR PART, THE SWISS AUTHORITIES CONSIDER THAT THE MEETING COULD PROCEED AS FOLLOWS:

A) THE DURATION OF THE MONTREUX MEETING COULD BE THREE TO FOUR WEEKS. THIS PERIOD OF TIME SHOULD ALLOW THE PARTICIPANTS TO ORGANIZE THEIR WORK, TO INITIATE THE STUDY OF A METHOD FOR THE PEACEFUL SETTLEMENT OF DISPUTES, AND THEN TO DETERMINE THE COURSE TO BE TAKEN.

B) IN THEIR VIEW, IT APPEARS THAT SEVERAL SESSIONS WILL INDEED BE NECESSARY FOR THE EXPERTS TO COMPLETE THEIR ASSIGNED TASK. THUS, PERIODIC MEETINGS WILL HAVE TO BE ENVISAGED, AT INTERVALS TO BE DETERMINED.

C) THE SWISS AUTHORITIES ALSO SUGGEST THAT ONE OR SEVERAL RAPORTEURS BE DESIGNATED IN ORDER TO MAINTAIN A CERTAIN CONTINUITY DURING THE INTERVALS BETWEEN THE SESSIONS.

III.

THE ELABORATION OF A GENERALLY ACCEPTABLE METHOD FOR THE PEACEFUL SETTLEMENT OF DISPUTES REPRESENTS A LONG-TERM EFFORT THAT WILL REQUIRE THE CONTRIBUTION OF ALL GOVERNMENTS CONCERNED. THEREFORE THIS EMBASSY WOULD

APPRECIATE RECEIVING, ALSO BY THE END OF MAY, THE VIEWS, OBSERVATIONS OR PROPOSALS OF THE DEPARTMENT OF STATE REGARDING THE MANNER IN WHICH IT CONCEIVES THE WAYS AND MEANS OF SUCH A METHOD, AS WELL AS ITS CONTENT. INDEED, THE FINAL ACT OF HELSINKI STIPULATES THAT NOT ONLY THE DRAFT PRESENTED BY SWITZERLAND, BUT OTHER

UNCLASSIFIED

UNCLASSIFIED

PAGE 04 STATE 104879

PROPOSALS RELATED TO IT AND BEARING ON THIS SUBJECT WILL SERVE AS WORKING DOCUMENTS.

THE DEPARTMENT OF STATE WILL FIND IN THE ENCLOSURE A LIST OF SUBJECTS TO BE PONDERED WITH REGARD TO ESTABLISHING A METHOD FOR THE PEACEFUL SETTLEMENT OF DISPUTES.

IN INITIATING THIS CONSULTATION, THE SWISS FEDERAL POLITICAL DEPARTMENT AIMS AT PREPARING A WORKING DOCUMENT THAT WILL FORM THE BASIS FOR THE DISCUSSIONS DURING THE MONTREUX MEETING IN FALL.

THE EMBASSY OF SWITZERLAND AVAILS ITSELF OF THIS OPPORTUNITY TO RENEW TO THE DEPARTMENT OF STATE THE ASSURANCES OF ITS HIGHEST CONSIDERATION.

WASHINGTON, D.C.

APRIL 20, 1978

ENCLOSURE: SUBJECTS TO BE PONDERED

1. A) OBLIGATORY CONCILIATION PROCEDURE FOR NON-JUSTICIABLE DISPUTES.

B) OBLIGATORY ARBITRAL PROCEDURE FOR JUSTICIABLE DISPUTES. --

C) OBLIGATORY CONCILIATION PROCEDURE FOR ALL TYPES OF DISPUTES. -- -

D) PROCEED IN STAGES: GIVE PRIORITY TO ONE OF THE ABOVE-MENTIONED PROCEDURES, A), B), AND C), AND LEAVE THE OTHERS FOR SUBSEQUENT NEGOTIATIONS.

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UNCLASSIFIED

PAGE 05 STATE 104879

2. LIMITATION OF THE OBLIGATORY ARBITRATION SYSTEM
TO CERTAIN IMPORTANT MATTERS COVERING A RATHER WIDE
FIELD.

CHOICE BETWEEN TWO VARIABLES:

A) METHOD APPLICABLE TO ALL DISPUTES, BUT WITH THE
RIGHT TO MAKE CERTAIN RESERVATIONS AS DETERMINED IN
ADVANCE; FOR EXAMPLE, THE EXCLUSION OF QUESTIONS
BEARING ON NATIONAL DEFENSE.

B) ENUMERATION OF MATTERS FALLING UNDER OBLIGATORY
ARBITRATION; FOR EXAMPLE:

-- INTERNATIONAL RESPONSIBILITY.

-- BORDER PROBLEMS (BORDER INCIDENTS, INTERNATIONAL
EASEMENTS, DELIMITATION OF BORDERS, IMMISSIONS,
REGIME FOR INTERNATIONAL WATERWAYS).

-- TRANSPORTATION RIGHTS (RAILWAYS, ROADS, AIRPLANES).

-- ENVIRONMENTAL PROBLEMS.

-- DIPLOMATIC AND CONSULAR LAW.

-- TREATMENT OF FOREIGNERS.

-- TREATMENT OF MINORITIES.

-- INTERPRETATION AND APPLICATION OF INTERNATIONAL
TREATIES (POSSIBLY WITH THE EXCLUSION OF ALLIANCE
TREATIES).

-- VALIDITY, ENTRY INTO FORCE AND TERMINATION OF
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PAGE 06 STATE 104879

TREATIES.

THIS LIST WOULD BE PERIODICALLY SUPPLEMENTED BY
SUBSEQUENT MEETINGS.

3. CONCILIATION PROCEDURE FOR DISPUTES CONCERNING THE
INTERPRETATION AND APPLICATION OF THE FINAL ACT OF

HELSINKI.

4. ELABORATION OF RULES FOR THE NEGOTIATION PROCEDURE WHICH CONSTITUTES THE FIRST STAGE IN THE SETTLEMENT OF DISPUTES.

5. RULING FOR THE TRANSITION FROM ONE STAGE TO ANOTHER (FOR INSTANCE, FROM NEGOTIATION TO CONCILIATION).

6. ELABORATION OF A MODEL CLAUSE OF SETTLEMENT OF DISPUTES, TO BE INCLUDED IN FUTURE TREATIES, BASED ON THE IDEAS CONTAINED IN THE DRAFT PRESENTED BY SWITZERLAND IN GENEVA.

7. PERIODIC REVIEW CONFERENCES IN ORDER TO COMPLETE AND EXTEND THE ALREADY ACCEPTED METHODS.

REMARKS:

A NEW METHOD FOR THE PEACEFUL SETTLEMENT OF DISPUTES WILL ONLY REPRESENT PROGRESS IF IT IS, AT LEAST PARTIALLY, OBLIGATORY.

THE SWISS DRAFT IS OF A SUBSIDIARY CHARACTER IN THE SENSE THAT THE PARTIES TO A DISPUTE WILL ALWAYS REMAIN FREE TO AGREE ON ANOTHER METHOD OF SETTLEMENT.
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PAGE 07 STATE 104879

THE DEFINITION OF TECHNICAL TERMS CAN BE FOUND IN THE SWISS DRAFT AND ITS COMMENTARY (DOCUMENT CSCE II/B/1, SEPTEMBER 18, 1973).

END TEXT.

2. MR VEST PROMISED THAT DEPARTMENT WOULD CAREFULLY CONSIDER NOTE AND RESPOND IN DUE COURSE.

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